TEN YEARS OF WAR AND THE HAGUE TREATY.

THE failure of The Hague "convention for the peaceful adjustment of international differences," which is the official title, to prevent, or even delay by a single hour, the recent war between Russia and Japan seems to have surprised no one. From the beginning of the dispute between those powers this great treaty of arbitration and conciliation was absolutely ignored not only by the principals to the quarrel, but by all other governments as well. The initiative having been graciously yielded by President Roosevelt, the Czar has called another international conference at The Hague for the consideration of questions relating to war and peace. The real significance of the coming conference will not be known until its sessions are ended and its results are announced to the world. For the moment, we may profitably contemplate the existing situation in the light of the salient facts which recent experience has revealed. It is a good time to face the truth regarding war and the influence upon it of the arbitration and conciliation treaty already in existence. That this treaty proved of no value in averting the great war in the far East is the first fact to be faced. The second fact is that, judging the world by the past ten years, wars are by no means tending to disappear.

Anxious as we are for the permanent reign of peace, let us not indulge too freely in the "illusions of hope." It is not in the published proceedings of the Lake Mohonk conferences on international arbitration that one may discern events in their true perspective. Some of us have become peace agitators (the word is used in no uncomplimentary sense), and it is the business of agitators to interpret things as favorably as possible to their cause. It is not surprising to find in the platform of the Lake Mohonk conference of 1905 an expression of "gratification over the advance made in the cause of the pacific settlement of disputes between nations during the past year," nor in the address of the general secretary of the American Peace Society the statement that "the year has been one of gratifying progress for the cause in whose interests we gather here." Doubt-

less there was some basis for these expressions, but it is impossible to forget that the same year was made memorable by battles on a larger scale than ever before were fought in history. The echoes of the guns of Mukden could almost be heard at Lake Mohonk when those utterances were made.

This reminder helps to bring us to the essential phase of the general situation. There were arbitrations and peaceful adjustments of international differences, literally by the hundred, during the century before The Hague treaty was made. The vital question is not how many international disputes of greater or less importance are settled by peaceful methods; it is rather how many wars does the world continue to wage? For the great ultimate of civilization, in this particular movement, is the abolition of murderous collisions between nations.

The most practical test of the tendencies of our own time is the amount of warfare in the world during the past ten years. It is staggering to contemplate. In 1894-1895, Japan and China fought; in 1897, Turkey and Greece; in 1898, the United States and Spain; in 1899-1903, Great Britain and the two South African republics; in 1904-1905, Russia and Japan, in a conflict whose scale brought the decade of strife to a mighty culmination. In this decade there were drawn into war nations Christian and pagan, occidental and oriental, and as well both monarchies and republics, both democracies and absolutisms. As death is no respector of persons, so the scourge of war was no respector of forms of religion or government or of varieties of civilization. The world-wide sweep of the struggles of ten years has furnished an extraordinary demonstration that none are yet immune from this primeval contagion. Into what other ten years since Waterloo has more war been crowded? Arrange the decades as we may; you will find that since the close of the Napoleonic era there has been none in which the drumbeat has been oftener heard. Notwithstanding peace and arbitration movements, war is one of the chief facts of our time; and we know this not merely because the armaments of land and sea, maintained as a preparation for hostilities, were never so large and costly as now, but because the decade we have just lived has been one continual trumpeting.

Grand as The Hague treaty is in conception and useful as it is bound to be in practice, it was a sore disappointment in offering no barrier to the outbreak of the Russo-Japanese war. The Hon. Oscar S. Straus, former United States Minister to Turkey and a member of the high tribunal of The Hague, asserted in his address at the last Lake Mohonk conference on international arbitration, that "The Hague tribunal .... stands behind the diplomacy of the world as an ever-widening wedge between a diplomatic ultimatum and the clash of arms. For the first time in the history of nations when diplomacy is at an end, we have a great system interposed between that ultimatum and the beginning of hostilities; that is an enormous gain." The truth is that the "system interposed" by The Hague convention failed to work when its first opportunity for preventing or delaying war was presented in the winter of 1903—1904. That failure merits careful attention inasmuch as study of the defects of the system, as shown by actual experience, may suggest desirable improvements in its make-up and mode of working. Nothing could be more profitable than such a study, since the main desideratum is always to prevent a conflagration from starting. Once a great war between first-class powers has begun, it is useless to try to stop it until the arbitral voice of the cannon has definitely spoken.

An excellent illustration of this was afforded after the recent war had broken out. The general secretary of the American peace society has informed us that "the friends of arbitration," in Europe and America, "made repeated efforts to bring to an end the sanguinary conflict in the far East through the employment of the means provided by The Hague convention. They have so far failed in their efforts."[1] Soon after that statement was made came President Roosevelt's friendly interposition, which was crowned with success in the peace treaty of Portsmouth, but the President, before acting, deliberately waited until after such decisive battles as Mukden and the Sea of Japan, and then he made no direct appeal to the sanction of The Hague convention.[2]

[1] Address by Mr. Trueblood at Lake Mohonk, May 31, 1905.

[2] See President Roosevelt's invitation to Czar and Mikado.

Recent experience has proved conspicuously that Mr. Straus was not quite accurate in the remarks quoted from his address. Even The Hague treaty interposes no system of conciliation between a diplomatic rupture and the beginning of hostilities. Japan struck at Russia both at Chemulpo and at Port Arthur, without a declaration of war, and with scarcely a perceptible interval between the recall of her minister at St. Petersburg and the signal to Admiral Togo to spring at the foe. And this action was sustained by international lawyers, publicists and diplomats as not in violation of the law of nations. The defence of such a practice—that a formal declaration of war in these days of electric communication throughout the world has become unnecessary either for belligerents or neutrals—is feeble, especially in its moral aspects. International law at this point has certainly degenerated. And it is perfectly clear that legitimatizing the practice of beginning war immediately after a diplomatic rupture, is alone sufficient to render futile the entire system of conciliation created by The Hague convention. The system, in the recent case of Japan and Russia, not only failed to work; it had no chance to work. And it will be shown that it never will work without certain changes in The Hague convention designed to insure a hiatus of definite duration between a diplomatic rupture and the resort to arms.

The articles of The Hague treaty that invited action by neutral powers for purposes of mediation or conciliation, in the weeks prior to the outbreak of the Russo-Japanese war, were particularly these:

ART. 2. In case of serious disagreement or conflict, before an appeal to arms, the signatory powers agree to have resource, as far as circumstances will allow, to the good offices or mediation of one or more friendly powers.

ART. 3. Independently of this resource, the signatory powers consider it useful that one or more powers, strangers to the dispute, should, on their own initiative, and as far as circumstances may allow, offer their good offices or mediation to the states at variance.

ART. 8. The signatory powers are agreed in recommending the application, when circumstances allow, of special mediation in the following form:—

In case of a serious difference endangering the peace, the states at variance shall each choose a power, to whom they intrust the mission of entering

into direct communication with the power chosen on the other side, with the object of preventing the rupture of pacific relations.

During the period of this mandate, the term of which, unless otherwise stipulated, cannot exceed thirty days, the states in conflict shall cease from all direct communication on the subject of the dispute, which is regarded as having been referred exclusively to the mediating powers, who shall use their best efforts to settle the controversy.

In case of a definite rupture of pacific relations, these powers remain charged with the joint duty of taking advantage of every opportunity to restore peace.

Article 2 is excellent, as a pious and academic promise to be good, but its efficacy as a barrier to war may be fixed at zero. It can become vitalized only by leading to some method of conciliation that will actually do work. Article 3, it is apparent, merely approaches the subject from the opposite direction and is equally futile because it gets no farther ahead. Both these articles were dead letters in the disagreement between Russia and Japan, and with good reason. Neither of these powers wanted mediation, and that fact alone killed article 2. And as for article 3, no other power would offer its good offices as a mediator, knowing that its good offices were not desired. Besides, how was it possible for a neutral power of influence, that might have been willing even to bear the diplomatic mortification of a snub for the sake of peace, to know just when to offer its good offices? So long as diplomatic discussion between the powers at variance continued, so long as their diplomatic notes passed back and forth, could another power assume that the contestants were necessarily in need of outside help to compose their differences? The natural point for an offer of good offices, under article 3, would be when diplomacy had apparently exhausted itself. In the case of Japan and Russia, that moment was not apparent to the world until the Japanese minister had been recalled from St. Petersburg. But—following the case of a neutral power ready to dare a rebuff for the sake of peace—even that opportunity was destroyed by Japan's instantaneous resort to war without sending an ultimatum or making any formal declaration of her hostile purpose. The precedent Japan has made in this respect has evidently struck a heavy blow to the working efficiency of article 3, in so far as it was designed to prevent war from breaking out.

The greater complexity of article 8 and its peculiar method of conciliation must already have impressed the reader. The failure of this article to make itself felt in the ante-bellum period of the recent war was no less complete than that of the other articles referred to. It might as well have been employed to prevent the Chicago fire as to prevent the far eastern conflict. Yet this is the article which seems to afford the most hope for a practical advance toward making wars less frequent in the immediate future. Obviously, it was ignored by the governments at Tokio and St. Petersburg because they were not in the least bound by its terms. The general method suggested for delaying a military collision, which may appear imminent, is excellent; but the recent experience demonstrated that it will never come into use by great powers on the verge of war, so long as its application is merely "recommended," "when circumstances allow," to governments at variance. But if this method of conciliation could be made a solemn *obligation*, resting upon every signatory of The Hague treaty, the good it would do might be beyond one's power to estimate. With a hiatus of even thirty days between a diplomatic rupture and a resort to arms, imposed by treaty upon possible or probable belligerents, during which period seconds should seek a basis for a friendly understanding, we could be indifferent whether or not the practice of sending formal ultimatums and making formal declarations of war disappeared from the customs of nations.

It is to the credit of Dr. Frederick W. Holls, one of the American delegates to The Hague conference of 1899, that article 8 was made a part of The Hague convention. Dr. Holls, in his authoritative work on "The Peace Conference at The Hague," (pp. 188-203) has given an interesting account of the history of the article, whose germinal idea, he says, had been before the public for years and had originated no one knows where. That the article made a strong impression upon the members of the conference is clear from the fact that they adopted it by a unanimous vote. The method of calling in seconds at a critical point in a controversy is drawn from the duelling code, but as here applied the seconds are presumed not to foment the quarrel but to do all in their power to end it

peaceably. The great advantage of the article comes, of course, from the thirty days' clause, which provides for a period of reflection among the peoples of the antagonistic nations and affords also a last chance for the friends of peace to make an earnest effort to prevent hostilities. Dr. Holls, on this point, writes in his book:

"On behalf of the military experts of several of the great powers it was stated that the article has one feature which would prove an agency for peace perhaps more effective than any other, and which was least objectionable of all, from the military and naval point of view. This is the interval of thirty days, which is provided for in the absence of a different stipulation, and which affords sufficient time to bring home directly to the peoples concerned the stupendous consequences of the impending conflict while it is yet time to retire with honor."

The great desirability of having article 8 made mandatory upon the signatories to the treaty cannot be successfully controverted. As the treaty stands, the article merely offers a suggestion. That it should be made an obligation of the most solemn character upon all powers within the pale of international law was evidently the conviction of M. de Nelidoff, the eminent Russian diplomatist, recently Russian embassador at Paris. Dr. Holls quotes M. de Nelidoff, in developing the idea, as having once said with great impressiveness:

"What should be done is to insist that before beginning hostilities, the contending parties should intrust the settlement of the affair to representatives in whom they can have absolute confidence; who will act according to instructions and who will each defend the honor of his principal as he would his own. Everything should then be left to these seconds. . . . If in the end the seconds decide that there was nothing to do but to have them 'fight it out,' they would do so. But if they resorted to arms without having had recourse to these preventive measures, and a catastrophe resulted, the winner should be treated, not as a duellist, but as an assassin. This should also be the rule in the case of an international war."

The only way to "insist" upon nations adopting the procedure of article 8, before setting their armies and navies in motion, is to make it mandatory. The amendments necessary to execute this purpose are especially a task for international lawyers and those expert in the phraseology of treaties, but the necessary stiffening of the article would be effected if the first paragraph were made to read like this:

ART. 8. The signatory powers *shall* accept special mediation in the following form:

In case of a serious difference endangering peace, *before a resort to arms,* the states at variance shall choose, etc.

Such an article in a treaty signed by all the governments within the pale of international law, would have a decided influence for peace. The nation that ignored it and precipitated war, whether in a passion or with cool deliberation, would have had its moral position undermined in the court of the world's opinion. How solicitous in our time are belligerents, or intending belligerents, to win the sympathy of neutral nations has been shown with fresh emphasis in the immediate past. It was highly important to Japan to have the moral support of the people of America, and there was nothing more interesting in Count Witte's conduct, while engaged in the Portsmouth peace negotiations, than his skillful courting of American public opinion in support of his diplomatic attitude toward the Japanese peace terms. World sentiment is a growing power; attempts to cajole, mislead or deceive it are tributes to its enormous influence. Japan even stationed unofficial embassadors in England and America during the late war to devote themselves particularly, among other things, to the study of popular sentiment and to educating it in harmony with Japanese interests. With article 8 made mandatory, could the powers on the verge of war safely defy the moral sentiment of mankind by ignoring it? It may be said that as this article was ignored, as it now stands, without exciting the slightest animadversion, the ignoring of the amended article might be equally successful. It is to be considered, however, that no one before could have regarded article 8 as a serious obstacle to war; the world understood that no power had covenanted most solemnly to follow this very definite procedure. The procedure had merely been "recommended" to the distinguished consideration of quarreling governments. But say "shall" to them, in this connection, and have the word sustained by that moral influence with which mankind even in its most barbarous stages has always sanctioned solemn treaty obligations—could powers in controversy then defy this article with impunity? Cer-

tainly not, if we can trust at all to the development of ethical sensitiveness in international relations as the outcome of the modern interplay of national consciences.

Article 8 in the "shall" form would not insure us against wars. By no means. At the end of the thirty days, the foes could strike their blows to their hearts' content, in strict conformity with the code. Even then there would be a gain for civilization, if nothing more were accomplished than the nullifying of the present practice of suddenly precipitating hostilities without a formal declaration. It is of interest, however, to observe the effect which the article, as amended, would probably have had upon the outbreak of some of the wars in the past generation, had it been in force during that period.

The Franco-Prussian war of 1870 could not have been declared when it was, by France, had this article 8, amended, confronted the governments of Paris and Berlin. To be sure, Bismarck desired war with France. He felt "convinced that the gulf" between north and south Germany "could not be more effectually bridged over than by a joint national war against the neighbor who had been aggressive for centuries."[3] A statesman with such a purpose might sooner or later have brought on war in spite of all obstacles. But he could not have brought it on, as he did, by his garbling of the Ems telegram and the deliberate inflaming of the French people by faked press dispatches concerning the personal relations between the King of Prussia and the French embassador, Benedetti. Bismarck's calculating purpose in garbling the Ems telegram was to incite the French to declare war. It (the garbled version) "will have the effect of a red rag upon the Gallic bull. . . . It is important that we should be the ones attacked, and this Gallic overweening and touchiness will make us, if we announce in the face of Europe, so far as we can without the speaking tube of the Reichstag, that we fearlessly meet the public threats of France." [4] How well he succeeded in his design, the French people know to their bitter cost. The Ems dispatch, garbled,

[3] Bismarck's Autobiography, vol, 2, page 99.
[4] Ibid, vol. II, page 101.

was published early July 14, 1870. At midnight the French government decided to make war; on the 15th, war was declared and the French army mobilized. The French government and *Corps Legislatif* had acted in a moment of incredible passion and folly and had gone into hostilities with so little soberness and for an object so little worthy of the life of a single guardsman that a period of reflection prior to the resort to arms could scarcely have failed to demonstrate to them the fatuity of their course.[5]

A period of thirty days injected into the situation at that critical point, to be used in accordance with the procedure of article 8 of The Hague treaty, would have allowed time for the truth to become known and for reason to assert itself. Indeed, Bismarck would not have used the tricky expedient that he did, had he confronted such a system of postponement of hostilities as we are now contemplating. And the probability is that, if war had finally come between France and Prussia, it would not have been fought on such a wretched pretext as the Hohenzollern candidature for the crown of Spain.

Scarcely less impressive as an illustration of the possible effect of article 8 of The Hague treaty, as amended, is the story of the rupture between Russia and Japan. The St. Petersburg correspondent of the *London Times* last summer reported at a considerable length the account given by the *Slovo*, a well-known St. Petersburg paper, of the final diplomatic rupture between the two governments. It will be recalled that in the last hours of the negotiations, in January-February, 1904, the vital issue was narrowed down to the question whether Russia would abandon her demand for a buffer territory between Manchuria and Korea. The world remembers that a certain belated dispatch was sent from St. Petersburg to Tokio, by way of Viceroy Alexieff, containing the last Russian reply, and that before this dispatch finally reached Tokio the Japanese minister had been recalled from St. Petersburg and the die had been cast for war. Now, in that dispatch the Czar abandoned his demand for a buffer between Manchuria and Korea. How

[5] Fyffe's History of Modern Europe, popular edition, pages 979-985.

Japan happened to recall her minister, without having received the dispatch in question, is thus explained in the St. Petersburg correspondence of the *Times*:

"The *Slovo* goes further, and shows why Japanese patience, after enduring repeated vexatious delays during six months of negotiations, suddenly failed at the moment when an agreement seemed assured. Here is the explanation, which is illustrative of Russian bureaucratic methods. It will be remembered that the terms of Russia's final reply were drafted at a meeting held on January 28, under the Grand Duke Alexis, at which Count Lamsdorff, General Sakharoff and Admirals Avellen and Abasa were present. All, with the exception of Admiral Abasa, agreed to waive Russia's demand for a buffer state. Admiral Abasa presented a minority report, which, together with the draft approved by his colleagues, was submitted to the Emperor four days later. Meanwhile Count Lamsdorff, not knowing whether the Emperor would approve the opinion of Admiral Abasa or that of the majority, declined to give Mr. Kurino any information. On the other hand, Admiral Abasa entered into communication with Mr. Kurino, and, before the Emperor could decide, gave the Japanese minister his own version of the reply, and Mr. Kurino promptly communicated it to Tokio. Admiral Abasa's position as manager of affairs on the committee of the far East, and as a person enjoying great influence at court, satisfied the Japanese that he rightly interpreted the views of his government, and that Russia's reply was a refusal. Nevertheless, the Japanese waited two or three days more before breaking off negotiations."

It was, then, according to this account, the false impression given to Minister Kurino by Admiral Abasa of the Czar's decision concerning the buffer state that convinced the Japanese government of the uselessness of further negotiations, and impelled it to strike without awaiting the official Russian reply at Tokio. It was a critical moment. Special mediation at that point by friendly neutral governments, with the compulsory thirty days' period of delay, might have deferred the Russo-Japanese war, if it had not rendered it impossible.

If article 8 cannot be made mandatory, it is difficult to conceive how immediate progress can be made, on practical lines, toward the lessening of the chances of war, through the system created by The Hague treaty. Compulsory arbitration, except within a restricted range, is too remote to be seriously considered at present by practical statesmen. Not one of them is ready to tolerate the idea with reference to issues that affect "national honor," "national integrity" or "vital" national interests. "No nation represented at The Hague in the past, or

likely to be represented there in the future, will ever adopt universal obligatory arbitration on all questions." Such is the matured opinion of the chairman of the American delegation to The Hague conference of 1899,[6] than whom no one strikes a truer balance in these matters between facts and ideals. Equally futile is it now to urge upon the great powers the general acceptance of the principle that distinguishes the new treaty of separation between Norway and Sweden, to the effect that when a question arises as to whether a certain dispute comes within the jurisdiction of The Hague tribunal, as defined in the limited arbitration treaties, that question shall itself be submitted to The Hague tribunal for final decision. The United States government, probably, could not accept such a principle, in practice, without tearing out the present constitutional basis of our relations with foreign nations.

Compulsory arbitration being unattainable, except possibly in a certain class of questions which by facile agreement do not affect "vital interests[7] or the national honor of the contracting states," the strengthening of article 8 of The Hague convention by the approaching international congress becomes the next practical step in the development of the peace idea, and in support of it the friends of the peace and arbitration movements might well concentrate their labors and influence. This much may be achieved because it is practical; and it is worth achieving because it marks a distinct, tangible advance toward the goal whither civilization is ever struggling.

Not even the limitation of armaments by international agreement would be so uncompromising an advance toward peace. In support of limitation there are strong arguments, especially those of a financial nature which impress upon us the burden of modern taxation for military purposes—a burden that becomes heavier decade by decade, owing to the competition in arma-

[6] Dr. Andrew D. White's letter to the Lake Mohonk international arbitration conference, dated May 24, 1905.

[7] See original Russian proposal for compulsory international arbitration of a certain class of disputes, and comments thereon, in Holls's "The Peace Conference at the Hague," pages 227-231; also Dr. A. D. White's letter to Lake Mohonk Conference, referred to above.

ments between the great powers and to the rapid progress of mechanical invention and the chemistry of explosives.

Nor ought we to ignore a certain excitation to war, akin to hypnotic suggestion, which the endless rivalry in armaments causes in the popular mind. Yet the limitation of armaments would not bring an end to wars. If all nations were as inadequately prepared for hostilities as were the North and South in 1861, and were kept in that condition by treaty agreements, wars would continue to be waged whenever national pride, national interests, national passion, became uncontrolable. The limitation of armaments would not strike at the heart of the problem, which is nothing else than the firm establishment of peace as the inviolate relation between the nations of the earth. The mere limitation of armaments on a proportionate basis, therefore, is not to be compared in efficacy, as a measure of peace, with the mandatory interposition of a buffer period between the stage of ultimatums and the stage of hostilities.

While it is futile to attempt the immediate establishment of an ideal, public opinion will not outrun practical possibilities if it demands from the next peace conference at The Hague something besides discussions of and agreements upon questions which are merely the by-product of war itself. Nothing would be done by that congress to lessen wars in the future if it should be content to consider only such questions as the rights of neutrals, the exemption from capture at sea of private property not contraband of war, the rules concerning the treatment and care of the wounded in battles, the use of wireless telegraphy, the privileges of belligerent ships at neutral ports, the use of marine mines in the defence of blockaded harbors and the precise nature and application of the doctrine of contraband—all of them questions of much importance in international law yet, with scarcely an exception, pertaining to the proper conduct of the wars that break out. Nor would the world make much progress toward the abolition of war, by the establishment of compulsory arbitration within the narrow limits to which compulsory arbitration has thus far been consigned. We should note the distinction that while compulsory arbitration, within the limitations and qualifications always in-

sisted upon, would diminish the possible *pretexts* for war, available to the hands of belligerent-minded statesmen, still pretexts would never be lacking to statesmen, who were not indifferent to the possible advantages of the war policy.

In the last resort, public sentiment must ever be responsible for the peace of mankind. No amount of elaborate machinery can shift the final responsibility otherwhere. If, at critical points, provision can be made for the possible cooling of the war spirit, if the moral sense of the world can impose upon the disputants a substantial pause for reflection and the critical examination of facts and tendencies, before they take the dread leap into the "alembic of hell" the responsible public opinion may perhaps be pierced through and through by the conscience of humanity and transformed into an overwhelming force for peace. It is such a pause—and surely it could never be for ill—that can now be imposed upon the whole family of nations by making article 8 of The Hague convention say the imperious "Thou shalt," instead of the impotent "We recommend to thee."

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THE RETAIL METHOD IN REFORM.

There are many ways of being a reformer, but, in this attempted defense of the retail method, it will be convenient roughly to divide all the ways into "wholesale" and "retail," and to describe, at the very outset, four kinds of reformers who practice one or the other of these two methods of reform.

1. There are those who bury themselves in particulars. Given a certain spiritual fervor and capacity for self-sacrifice, these make up a majority of the noble army of saints and martyrs; given a certain defect of social imagination, they constitute the rank and file of those who, in our day, are described vaguely as trying "to do good."

The sins of this class are obvious enough. They will care tenderly for the fever-stricken without seeking to remove the cause of the fever. They will raise funds to assist in